

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Giansante	Team: Squad #8	CCRB Case #: 201800074	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 12/31/2017 2:27 PM	Location of Incident: In front of § 87(2)(b) in front of § 87(2)(b)	Precinct: 47	18 Mo. SOL 6/30/2019	EO SOL 6/30/2019	
Date/Time CV Reported Sun, 12/31/2017 3:19 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 12/31/2017 3:19 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Johnatan Taborda	20193	963296	047 PCT
2. POM Jonathan Polanco	26935	948263	047 PCT
3. An officer			047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Gladys Modesto	27516	948251	047 PCT
2. POM Irvin Saenz	22055	959959	047 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jonathan Polanco	Abuse: In front of § 87(2)(b) in the Bronx, Police Officer Jonathan Polanco drew his gun.	§ 87(2)(b)
B.POM Jonathan Polanco	Abuse: In front of § 87(2)(b) in the Bronx, Police Officer Jonathan Polanco stopped § 87(2)(b)	§ 87(2)(b)
C.POM Jonathan Polanco	Abuse: In front of § 87(2)(b) in the Bronx, Police Officer Jonathan Polanco drew his gun.	§ 87(2)(b)
D.POM Jonathan Polanco	Abuse: In front of § 87(2)(b) in the Bronx, Police Officer Jonathan Polanco stopped § 87(2)(b)	§ 87(2)(b)
E.POM Johnatan Taborda	Abuse: In front of § 87(2)(b) in the Bronx, Police Officer Johnatan Taborda stopped § 87(2)(b)	§ 87(2)(b)
F.POM Jonathan Polanco	Abuse: In front of § 87(2)(b) in the Bronx, Police Officer Jonathan Polanco frisked § 87(2)(b)	§ 87(2)(b)
G.POM Jonathan Polanco	Discourtesy: In front of § 87(2)(b) in the Bronx, Police Officer Jonathan Polanco spoke discourteously to § 87(2)(b)	§ 87(2)(b)
H. An officer	Discourtesy: In front of § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b)	§ 87(2)(b)
I.POM Jonathan Polanco	Abuse: In front of § 87(2)(b) in the Bronx, Police Officer Jonathan Polanco drew his gun.	§ 87(2)(b)

Case Summary

On December 31, 2017, § 87(2)(b) filed the following complaint in person at the 47th Precinct stationhouse (BR01). The complaint was forwarded to IAB, generating original log number 2017-51697 (BR02). On January 3, 2018, § 87(2)(b) filed the same complaint with the CCRB by leaving a voicemail on the DiRAD message system (BR03).

On December 31, 2017, at approximately 2:27 p.m., Police Officer Jonathan Polanco and Police Officer Johnatan Taborda, both of the 47th Precinct, were canvassing for suspects after a report of an attempted gunpoint robbery. In front of § 87(2)(b) in the Bronx, PO Polanco drew his gun as he approached § 87(2)(b) (**Allegation A: Abuse of Authority**, § 87(2)(g) PO Polanco allegedly stopped § 87(2)(b) at that location (**Allegation B: Abuse of Authority**, § 87(2)(g)

PO Polanco followed § 87(2)(b) to a restaurant at § 87(2)(b) and stood outside when § 87(2)(b) entered the restaurant. PO Polanco drew his gun again as he stood outside (**Allegation C: Abuse of Authority**, § 87(2)(g) PO Polanco and PO Taborda ordered § 87(2)(b) to exit the restaurant and stopped him outside (**Allegations D & E: Abuse of Authority**, § 87(2)(g) PO Polanco frisked § 87(2)(b) (**Allegation F: Abuse of Authority**, § 87(2)(g) PO Polanco allegedly called § 87(2)(b) a “dumbass” (**Allegation G: Discourtesy**, § 87(2)(g) An unidentified officer allegedly told § 87(2)(b) “You can’t fuck with us” (**Allegation H: Discourtesy**, § 87(2)(g)

§ 87(2)(b) later encountered PO Polanco and PO Taborda again in front of § 87(2)(b) and PO Polanco allegedly drew his gun again (**Allegation I: Abuse of Authority**, § 87(2)(g)

The investigation obtained cellphone video footage from § 87(2)(b) showing his final interaction with the officers, but it does not show any portion of the incident in which the alleged actions took place (BR04).

§ 87(2)(g)

Findings and Recommendations

- **Allegation (A) Abuse of Authority: In front of § 87(2)(b) in the Bronx, Police Officer Jonathan Polanco drew his gun.**
Allegation (B) Abuse of Authority: In front of § 87(2)(b) in the Bronx, Police Officer Jonathan Polanco stopped § 87(2)(b)

§ 87(2)(g)

At approximately 2:21 p.m., § 87(2)(b) called 911 to report that three black men had attempted to rob him near the intersection of § 87(2)(b) and § 87(2)(b) and that one of the men was armed with a gun. The suspects fled southbound on § 87(2)(b). Within three minutes, a sergeant met § 87(2)(b) and began relaying over the air the descriptions of the perpetrators provided to him by § 87(2)(b). The three suspects were respectively described as a

black man wearing a black jacket with a blue scarf on his face, a black man wearing a red hoodie with a black scarf on his face, and a black man wearing a blue hoodie and a black jacket.

In the minutes after the job was first announced over the air, there was a good deal of crosstalk, and various iterations of the suspect descriptions were repeated multiple times by officers and the dispatcher. No information was provided over the air as to which suspect had the gun. The direction of flight was confirmed as southbound on § 87(2)(b) but units were directed to canvass additional locations, including nearby avenues and subway stations. A few minutes later, an officer stated over the air that the suspects were in their “late teens.”

At approximately 2:27 p.m., within six minutes of the job first being announced over the air, PO Polanco radioed to say that he was canvassing on § 87(2)(b) which is two blocks west of § 87(2)(b). Three minutes later, at approximately 2:30 p.m., a female officer yelled urgently over the air that two men were fleeing on § 87(2)(b). A great deal of crosstalk and confusion ensued, during which the location was described as being near the intersection of § 87(2)(b) and § 87(2)(b). After four more minutes, or at approximately 2:34 p.m., a sergeant announced that two men had been apprehended, whom he described merely as “black hoodie, black jacket.” The sergeant asked for § 87(2)(b) to be brought to the location.

Almost immediately after the sergeant announced that two suspects had been apprehended, or at approximately 2:35 p.m., PO Polanco obtained confirmation over the air that the third suspect, who had not yet been apprehended, was the one wearing the red hoodie. PO Polanco then asked over the air for § 87(2)(b) to be brought to § 87(2)(b) and another officer then said that the suspect wearing the red hoodie was the one who had the gun. PO Polanco then asked twice more for officers to bring § 87(2)(b) to § 87(2)(b). About one minute later, a female officer stated over the air that the suspect wearing a red hoodie was also wearing “red Timberlands.”

At approximately 2:37 p.m., the sergeant who had § 87(2)(b) in his vehicle asked for PO Polanco’s location, and PO Polanco provided it. A male voice could then be heard saying, “Negative. Negative.” The same sergeant then said that he was going to continue canvassing for the remaining suspect while he had § 87(2)(b) in his vehicle. It was not until this point that the sergeant put over the air that the remaining suspect was about 5’10” tall, was “heavysset,” weighed about 200 pounds, and was dark-skinned. No further transmissions regarding PO Polanco’s activity at § 87(2)(b) came over the air after that point.

At approximately 2:57 p.m., the sergeant who had been driving § 87(2)(b) announced that he recovered the gun in the same location at which the two suspects had been apprehended. This was the first moment that anyone announced over the air that a gun had been recovered.

The dispatcher recording shows that the first interaction between PO Polanco and § 87(2)(b) must have taken place between approximately 2:27 p.m. and approximately 2:35 p.m. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) recounted that he left his residence at § 87(2)(b) and began walking toward § 87(2)(b). He was wearing green boots, green pants, a green jacket over a burgundy hoodie, and an orange beanie. He did not have a scarf. § 87(2)(b) wore the exact same clothing to the interview, except that he did not bring the burgundy hoodie. The investigation took multiple photographs of § 87(2)(b) wearing the clothing (BR09-BR13). § 87(2)(b) insisted that, at the time he left his house, the burgundy hoodie would not have been visible because he had the hood of the green jacket raised.

In all his statements, § 87(2)(b) recounted that he encountered PO Polanco in the street outside his residence, and that he asked PO Polanco if everything was okay or if there was some problem. In his in-person interview, § 87(2)(b) recounted that PO Polanco told him, "I'm gonna have to stop you. There's a robbery and I just want to make sure you're not somebody we're looking for." § 87(2)(b) protested that PO Polanco could not suspect him, as he had just seen § 87(2)(b) leave his residence. § 87(2)(b) stood with PO Polanco for about five minutes, during which time PO Polanco spoke into his radio. Eventually § 87(2)(b) heard a voice saying that he was not the suspect, but he did not actually hear a description come over the radio. PO Polanco then told him he was free to go. § 87(2)(g)

In all his statements, § 87(2)(b) recounted that he used profanity and complained about being stopped as he walked away from PO Polanco. § 87(2)(g)

§ 87(2)(b) never alleged that PO Polanco drew his gun during this portion of the incident. He also denied seeing PO Taborda, or any other officer, at the location during this first stop.

PO Polanco denied that he stopped § 87(2)(b) on § 87(2)(b) (BR14). He recounted that he was driving southbound on § 87(2)(b) with PO Taborda toward the intersection with § 87(2)(b). PO Polanco fully acknowledged that there was a good deal of crosstalk and confusion in the radio messages regarding the gunpoint robbery, and that he could not hear or understand some of the transmissions. He knew that the victim was being questioned for more information to be relayed over the air, and that at some point it was relayed that there were multiple suspects. He could not recall any descriptions that were put over the air except that of a black man wearing a red hoodie. He thought the description might also have included that the suspect was wearing red shoes, but he could not be sure. He could not recall if the suspect's age or the direction of flight were given. He could not recall if the description ever changed.

PO Polanco recalled an officer making an urgent request for assistance over the air, but he could not recall any of the details. He could not recall if he had heard that some suspects were apprehended before he first saw § 87(2)(b). He was uncertain as to whether the request for assistance came over before he first saw § 87(2)(b) but he thought it did.

As PO Polanco's vehicle moved slowly southbound, he saw § 87(2)(b) walking at a normal pace as he exited through the front gate of § 87(2)(b). PO Polanco saw that § 87(2)(b) was wearing a red hoodie beneath a coat, and that he was wearing brown boots with a "reddish" trim. § 87(2)(b) appeared to be about 25-35 years old. PO Polanco viewed the photos of § 87(2)(b) taken during his CCRB interview, and he confirmed that § 87(2)(b) was wearing the

same boots and green coat during the incident. PO Polanco was able to see the red hoodie's collar and part of its hood sticking out from the collar of § 87(2)(b)'s green jacket. PO Polanco could not recall if § 87(2)(b) had a scarf or was wearing a hat. The red hoodie caught PO Polanco's attention "right away." PO Polanco confirmed that, at the time he first approached § 87(2)(b) he had not yet learned that the suspect wearing a red hoodie was the one who had the firearm.

§ 87(2)(g) In his initial statement, PO Polanco said merely that he "approached" § 87(2)(b) and "asked him if he saw anything going on." PO Polanco believed that PO Taborda was with him at this point. PO Polanco denied that he ever told § 87(2)(b) to stop. He merely told § 87(2)(b) that he wanted to talk to him for a second, and that he was just trying to figure out what was going on. PO Polanco wanted to gain more information by assessing § 87(2)(b)'s "demeanor" and "the way he answered the questions." At that point, PO Polanco suspected that § 87(2)(b) was one of the suspects because he was wearing a red hoodie and he was in close proximity to the location of the crime. He also noted that § 87(2)(b)'s eyes were very watery, which indicated to PO Polanco that § 87(2)(b) had been outside in the cold weather for some time, and had not just recently left his residence. PO Polanco could not recall if he touched § 87(2)(b) during the first interaction.

§ 87(2)(b) refused to talk to PO Polanco and simply kept on walking. PO Polanco could not recall if § 87(2)(b) ever stopped walking for any amount of time, but he denied that § 87(2)(b) cooperated and stood with him at the location for a number of minutes. PO Polanco confirmed that § 87(2)(b) was yelling and using profanity, but he could not recall any statements that § 87(2)(b) made. He later acknowledged that § 87(2)(b) was "calling [him] many things," but maintained that he could not recall anything that § 87(2)(b) said. PO Polanco denied that § 87(2)(b)'s refusal to stop walking and his use of loud profanity increased his suspicion.

PO Polanco did not initially recount that he drew his gun during this portion of the incident. However, he later mentioned that he had his gun drawn before he first approached § 87(2)(b) because he was canvassing for an armed suspect. He reholstered his gun once § 87(2)(b) claimed that he had just exited his house.

As PO Polanco clearly suspected § 87(2)(b) of being involved in the gunpoint robbery, he was asked why he did not simply stop § 87(2)(b) on § 87(2)(b) during their first interaction. PO Polanco explained that he wanted more information about what was going on, as there had been a lot of static during the radio transmissions. He intended to use his radio to get more information so he could ensure that he had sufficient grounds to stop § 87(2)(b).

PO Taborda § 87(2)(g) recounted that the officers were driving west on § 87(2)(b) § 87(2)(b) toward § 87(2)(b) when PO Polanco told him that he had seen § 87(2)(b) emerge from the backyard behind § 87(2)(b) (BR15). PO Taborda also recounted seeing § 87(2)(b) walking out from an alley beside the building.

PO Taborda was certain that the urgent request for assistance had been put over the air before he and PO Polanco first saw § 87(2)(b). He also recounted that they learned from radio transmissions that two suspects had been apprehended at § 87(2)(b) and § 87(2)(b) and that a gun was found with those two suspects. PO Taborda was certain that the radio transmissions had indicated that there were multiple guns involved in the incident, and that the third remaining suspect was also supposed to be armed. The description of the third suspect was a man in his teens with a red hoodie, red boots, and a scarf. PO Taborda claimed that § 87(2)(b)

was wearing a red or “reddish” leather jacket and brown Timberland boots. He denied that § 87(2)(b) was wearing the green jacket seen in the photos of him taken at the CCRB.

PO Polanco exited the vehicle to approach § 87(2)(b) and PO Taborda drove it to park it near the intersection. When PO Taborda walked back toward § 87(2)(b) PO Polanco was already with § 87(2)(b) PO Taborda denied that he or PO Polanco ever told § 87(2)(b) to stop, and denied that they touched § 87(2)(b) PO Polanco explained that there was an ongoing incident involving a firearm, and he told § 87(2)(b) that he matched a description. § 87(2)(b) did not stop walking, and he continued moving toward § 87(2)(b) § 87(2)(b) began yelling that the officers were harassing him and that they were only stopping him because he was black. PO Taborda denied that § 87(2)(b) used profanity. The officers followed § 87(2)(b) and § 87(2)(b) began walking fast. PO Taborda’s suspicion of § 87(2)(b) was increased, as § 87(2)(b) seemed to be trying to avoid the officers.

§ 87(2)(g)

The courts have addressed the pertinent issue in this incident through their analyses of street stops which are based upon anonymous tips. In those cases, the courts have consistently ruled that an anonymous report at most provides officers with grounds to conduct a common-law inquiry, even if an individual matches a description. This stands in opposition to a report from a known party, which does give officers reasonable suspicion to stop an individual. *People v. Moore*, 6 N.Y.3d 496 (2006) (BR16), citing *Florida v. J.L.*, 529 U.S. 266 (2000) (BR17). The courts have reasoned that a report from a known party is more reliable because officers can assess the party’s credibility and basis of knowledge. In addition, officers can follow up with a known party and hold him or her responsible if his or her allegations prove to be fabricated.

The courts have also evaluated the legitimacy of such stops by examining the specificity of the description of the suspect, the resemblance of the stopped individual to the description, and the stopped individual’s spatial and temporal proximity to the location and time of the alleged crime. The courts tend to evaluate these factors in view of the totality of the circumstances in each case. In general, vague and generic pedigree descriptions are looked upon unfavorably with regard to the basis they provide for officers to stop a suspect (See: *People v. Ransom*, 46 Misc. 3d 1224(A) (Crim. Ct., Bronx Co. 2015) (BR18); *People v. Dubinsky*, 289 A.D.2d 415 (2nd Dept. 2001) (BR19)). The resemblance of the stopped individual to the description is an important factor, but some amount of discrepancy between the two is allowable. Stops which are conducted almost immediately after the incident are viewed favorably. Similarly, stops which take place in close proximity to the incident location are viewed favorably, as are those which take place at a location to which it would have been reasonable for the suspect to have fled in the time since the incident. (See: *People v. Abdul-Mateen*, 126 A.D.3d 986 (2nd Dept. 2015) (BR20); *People v. Ortiz*, 284 A.D.2d 187 (1st Dept. 2001) (BR21); *People v. Washington*, 182 A.D.2d 520 (1st Dept. 1992) (BR22)).

§ 87(2)(g)

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Patrol Guide Procedure 221-01 notes that an officer's decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. Once the potential for serious injury is no longer present, the officer should holster the firearm as soon as practicable (BR23).

§ 87(2)(g)

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- **Allegation (C) Abuse of Authority: In front of § 87(2)(b) in the Bronx, Police Officer Jonathan Polanco drew his gun.**
Allegation (D) Abuse of Authority: In front of § 87(2)(b) in the Bronx, Police Officer Jonathan Polanco stopped Micahel § 87(2)(b)
Allegation (E) Abuse of Authority: In front of § 87(2)(b) in the Bronx, Police Officer Johnatan Taborda stopped § 87(2)(b)
Allegation (F) Abuse of Authority: In front of § 87(2)(b) in the Bronx, Police Officer Jonathan Polanco frisked § 87(2)(b)

It is undisputed that PO Polanco drew his gun when he was standing outside the restaurant at § 87(2)(b) and that he eventually stopped § 87(2)(b) by ordering him to come outside. Although § 87(2)(b) did not recount seeing PO Taborda until after the beginning of the stop, PO Taborda and PO Polanco both recounted that PO Taborda was present and participated in stopping § 87(2)(b). Similarly, § 87(2)(b) denied that any officer frisked him, but PO Polanco admitted that he did so, and he prepared a UF-250 report which stated as much (BR24).

§ 87(2)(b) recounted that PO Polanco followed him to the restaurant and stood outside watching him. § 87(2)(b) saw that PO Polanco had drawn his gun, and he responded by speaking to PO Polanco from inside the restaurant. § 87(2)(b) repeatedly asked PO Polanco why he had followed him, he pointed out that PO Polanco had drawn his gun, and he said that he was merely trying to order food. He claimed that PO Polanco mouthed the words “I got you” or “I got you now” at him. In order to show PO Polanco that he was not armed, § 87(2)(b) removed his hat, green jacket, and burgundy hoodie. He lifted his shirt to show his waistband, he spun around, and he emptied his pockets. PO Polanco then ordered § 87(2)(b) to come outside. § 87(2)(b) left the clothing he had removed inside the restaurant.

PO Polanco § 87(2)(g) followed § 87(2)(b) from a distance of about 10-20 feet. § 87(2)(b) continued to yell and curse, but he did not quicken his pace. PO Polanco could not recall if he said anything to § 87(2)(b) while he followed him. He did not draw his gun during this time. PO Polanco did not enter the restaurant because he could keep § 87(2)(b) in sight while awaiting further information over the radio. He confirmed that he saw § 87(2)(b) order food, and that § 87(2)(b) removed his outer layers. At the time, PO Polanco did not know what to make of § 87(2)(b)'s behavior.

PO Polanco eventually heard confirmation over the radio that the suspect wearing a red hoodie was the one who was suspected of having the gun. At that point, PO Polanco drew his gun because he suspected that § 87(2)(b) was the armed perpetrator. PO Polanco ordered § 87(2)(b) to exit the restaurant, as he intended to stop him and to wait for the victim to be brought so a show up could be conducted.

PO Polanco frisked § 87(2)(b). He felt § 87(2)(b)'s armpits, waist, groin, and ankles. PO Polanco frisked § 87(2)(b) because he suspected that § 87(2)(b) was the armed perpetrator in the attempted gunpoint robbery. Other than the previously stated reasons, PO Polanco did not make any further observations which contributed to his suspicion that § 87(2)(b) possessed a weapon.

PO Polanco noted on the UF250 report that he stopped § 87(2)(b) because he “fit [a] partial description,” in that he was wearing a red hoodie, and because of his proximity to the scene of a crime. He frisked § 87(2)(b) because he was suspected of being armed and of committing a violent crime.

As previously noted, PO Taborda recounted that he was present with PO Polanco in front of the restaurant, and that he participated in stopping § 87(2)(b) PO Taborda denied that PO Polanco drew his gun during this portion of the incident.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

According to Patrol Guide Procedure 212-11, a frisk is authorized when an officer reasonably suspects that an individual is armed and dangerous. This includes situations in which the officer reasonably suspects that the person has committed a violent crime, and situations in which a victim or witness indicates that a suspect may be carrying a weapon. A frisk may only be conducted to determine if an individual has a weapon on his or her person (BR25).

§ 87(2)(g)

- **Allegation (G) Discourtesy: In front of § 87(2)(b) in the Bronx, Police Officer Jonathan Polanco spoke discourteously to § 87(2)(b)**
Allegation (H) Discourtesy: In front of § 87(2)(b) in the Bronx, an officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) did not recount in his handwritten complaint or in his DiRAD message that officers used profanity. In his phone statement, he recounted that he waited for some time with officers in front of the restaurant, until he heard the description come over the radio of a suspect wearing a red hoodie and red Timberland boots. He then protested, “I don’t even fit the description!” In his initial account, § 87(2)(b) said that he then heard officers make “rude comments” to each other. However, he later said that the officers made the comments to him. He recalled hearing officers say, “Dumbass,” and “You think you could fuck with us?” He did not specify which officer or officers made these statements.

In his in-person interview, § 87(2)(b) initially said only that the officers “had a joking attitude,” but that he could not recall what they were actually saying. He later reiterated that he knew only that the officers were laughing, and that he could not recall exactly what they were saying. He again described the officers as “joking amongst each other,” and he specifically denied that the officers were speaking to him. However, upon finally being reminded that he had alleged in his phone statement that officers used the words “dumbass” and “fuck,” § 87(2)(b) then alleged that PO Polanco called him a “dumbass.” He also alleged that a male officer standing behind PO Polanco said to him, “You can’t fuck with us.” § 87(2)(b) now insisted that the officers were speaking to him at the time, and that they were trying to provoke a reaction from him.

§ 87(2)(b) could provide no description for the officer who allegedly used the word “fuck” with him.

PO Polanco and PO Taborda both denied that any officer made either of the alleged comments, and both denied that any officer used any profanity with § 87(2)(b) while standing in front of the restaurant.

§ 87(2)(g)

§ 87(2)(g)

- **Allegation (I) Abuse of Authority: In front of § 87(2)(b) in the Bronx, Police Officer Jonathan Polanco drew his gun.**

It is undisputed that, after the “show up,” PO Polanco and PO Taborda returned to the vicinity of § 87(2)(b) to search for a gun. PO Polanco and PO Taborda both still thought that § 87(2)(b) was involved in the crime, despite the fact that the victim did not positively identify § 87(2)(b). PO Polanco noted that the victim may have been thrown off by § 87(2)(b) having left his outer clothing inside the restaurant. The officers wanted to see if § 87(2)(b) had ditched a gun in the vicinity of the building near which they had first seen him, especially as the location was near the location at which the other two suspects were apprehended.

§ 87(2)(b) recounted that he took his food home and encountered the officers. He protested to the officers that they were acting “ridiculous” as they had no reason for continuing to suspect him. PO Polanco told § 87(2)(b) that the officers were looking for a gun. § 87(2)(b) insisted that there was no gun. § 87(2)(b) approached to within a distance of about 15-20 feet from the officers, at which point PO Polanco drew his gun and held it down by his side. PO Polanco told § 87(2)(b) “Don’t come over here. We’re looking for a gun. Get out of here.” § 87(2)(b) went inside, retrieved an iPad, and came back outside to film the officers. By that point, PO Polanco had holstered his weapon, and he did not draw it again.

Both officers denied that they ever ordered § 87(2)(b) not to approach them during this portion of the incident, and both denied that PO Polanco ever drew his gun.

§ 87(2)(g)

§ 87(2)(g)

Patrol Guide Procedure 221-01 notes that an officer's decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. Once the potential for serious injury is no longer present, the officer should holster the firearm as soon as practicable (BR23).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR26).
- PO Jonathan Polanco has been a member of the NYPD for nine years and has been a subject in five cases and 13 allegations, none of which was substantiated.
- PO Johnatan Taborda has been a member of the NYPD for one year. This is the first CCRB complaint in which he has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of June 12, 2018, the NYC Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (BR27).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 8

Investigator:	_____	Inv. Daniel Giansante	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date